

Consolidated Q&A - Emergency Economic Measures Order

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New Financial Authorities within the Emergencies Act

Q. What authorities were in place prior to Emergencies Act and why weren't they sufficient?

The federal financial institutions statutes do not include an authority to require financial service providers to review their business relationships and cease dealing with persons conducting illegal activities. The laws and regulations covering other financial services providers, such as securities dealers or funding platforms, vary by province. There is no overall authority to restrict the funds that go to support illegal assemblies.

Additionally, prior to the Order, crowdfunding platforms and some payment service providers were not subject to obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and could have been used to finance illegal assemblies. To address this, the Order extends certain anti-money laundering and anti-terrorist financing requirements to crowdfunding platforms and payment service providers.

Q. What new authorities have been implemented and how will they help resolve the situation?

The measures contained in the Order require financial service providers to determine on a continuing basis whether they conduct business with a person engaged in activities prohibited by the *Emergency Measures Regulations* (a designated person) and to freeze or suspend business relationships with them. This includes the suspension of access to deposit accounts, cryptocurrency wallets, lending products, and investments. The Order provides authorities for Canadian law enforcement agencies and Canadian financial service providers, such as banks, to exchange relevant information for the purpose of applying the Order.

The Order authorizes federal, provincial, and territorial government institutions to disclose information to any Canadian financial service provider when it is satisfied that the disclosure will contribute to the application of the Order. This allows law enforcement agencies to share with financial service providers the identity of illegal protesters, which enables financial service providers to cease their dealings with designated persons.

The Order requires insurance companies to cancel or suspend the insurance policy for any vehicle taking part in a prohibited assembly.

The Order also extends the scope of Canada's anti-money laundering and anti-terrorist financing rules to cover crowdfunding platforms and payment processors. They require crowdfunding platforms and

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payment service providers that are in possession or control of any funds that are owned, held or controlled by or on behalf of a designated person to register with and report suspicious and large value transactions of \$10,000 or more to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

The Government said that the measures taken under the Regulations and the Order were aimed at restricting the funding of the illegal blockades by mitigating the risks that these platforms are able to receive funds for illicit purposes, increasing the quality of financial transaction information received by FINTRAC, and making more information available to support investigations by law enforcement.

Q. How can law enforcement leverage these authorities to address the situation?

The Order provides authorities for Canadian law enforcement agencies and financial service providers to exchange relevant information for the purpose of applying the Order. This includes identifying designated persons but also persons that have stopped participating in the unlawful activities and with whom Canadian financial service providers should resume their dealings.

General Approved Questions

Q. What does the Order do to restrict the funding?

This order requires all financial service providers to cease providing services with persons involved in the blockades.

It requires financial services providers to cease, suspend or refuse, to provide services to any person or entity involved in the blockades, not to facilitate any transaction relating to funds or virtual currency, and not offer any financial service and providing any funding, including virtual currencies, to anyone involved in the blockades.

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Q. What will banks and other financial services providers be required to do under this order?

Banks and other financial service providers will have to take the following steps:

- * Review their records to identify if they have any business with persons involved in the blockades.
- * Freeze or suspend business relationships with anyone involved in the blockades. This includes the suspension of access to deposit accounts, cryptocurrency wallets, lending products, and investments.

Q. Banks have frozen accounts before. What is different?

The order imposes a set of obligations to review their relationships with anyone involved in the blockades and report to the RCMP or CSIS.

A bank or other financial service provider will now be able to freeze or suspend an account without a court order. In doing so, they will be protected against civil liability.

Government of Canada institutions will have a new broad authority to share information with banks and other financial service providers to ensure we all work together to put a stop to the funding of the blockades.

Q. What safeguards will there be to protect Canadians?

These are temporary measures directed at restricting the funding of the blockades and will be in effect for 30 days.

The restriction on funds will cease to apply if affected individuals are no longer involved in the blockades.

Affected individuals will also have access to the courts.

Q. Will this apply to entities regulated by provinces such as credit unions?

Yes, this order applies to all financial services providers, including those regulated under provincial law. This includes provincial credit unions and caisse populaires, provincial companies and securities dealers.

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Q. Does the Order cover cryptocurrencies?

Yes, this order is broad and covers assets and entities such as digital assets, crypto-currencies, payment processors and funding platforms. This order requires them to take action immediately.

Q. Will the RCMP be able to share information with banks and other financial entities?

The order includes the ability for the RCMP and other provincial (including local police) and territorial law enforcement agencies, together with other institution of the Government of Canada, to share information with banks and other financial services providers if they are satisfied that it will help with implementation of the order.

The information shared could include the names of persons and entities that are involved in the blockades. The RCMP and law enforcement agencies will continue to share information in accordance with their investigation processes.

Q. Which department or agency should be responsible for releasing numbers of financial accounts that are being investigated, frozen and unfrozen? Who is the authority regarding this information?

A. RCMP

Q. When we say “accounts”, what exactly is being referred to?

A. The measures in the *Emergency Economic Measures Order* applied to all funds, including those held in a deposit, chequing, savings, or trading account, and to cryptocurrency wallets, lending products such as credit cards and lines of credit, investment assets, and insurance policies for vehicles used in the illegal blockades. Please refer to this February 21 statement by the RCMP -- [Enforcement under the Emergencies Act](#).

Q. How are accounts being frozen or unfrozen?

A. Canadian financial service providers, as defined in the *Emergency Economic Measures Order*, were responsible for implementing the measures in the Order. The RCMP indicated in its February 23 statement that it had gone back to financial institutions with some updated information about certain entities when determined that their status may have changed pertaining to the illegal protest activity. This new information was available alongside all other information to help inform decisions to unfreeze

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certain accounts. For more information please see this RCMP statement: [Enforcement under the Emergencies Act – Unfreezing of accounts](#).

Q. Is the February 15 order retroactive?

A. No, the measures in the *Emergency Economic Measures Order* were not retroactive and were only effective between February 15 and February 23.

Q. Are small donations being investigated? Or just accounts of big donors, organizers and participants?

A. No, small donations were not being investigated, as indicated by the Deputy Prime Minister earlier this week, the focus of law enforcement had been on leaders and on the vehicles that were such an important part of the illegal blockades and occupations. The RCMP has indicated that it did not disclose information on donors or on those who purchased merchandise. Please refer to this February 23 statement by the RCMP: [Enforcement under the Emergencies Act – Unfreezing of accounts](#)

Q. Are all accounts unfrozen now? How long did this take?

A. Financial service providers began unfreezing accounts and credit cards/lines of credit on February 21 due to updated information provided by the RCMP. It is my understanding that as of Wednesday, Feb 23, the vast majority of bank accounts that were frozen as a result of the Order had been unfrozen. All accounts that were frozen pursuant to the Order were unfrozen by February 24. That being said, I also understand that a number of accounts remain frozen pursuant to court orders and proceedings that are unrelated to the measures taken under the *Emergencies Act*.

Crowdfunding and Payment Service Provider Registration and Reporting

Key Messages:

- Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), financial institutions and other entities are subject to due diligence and reporting requirements aimed at identifying individuals involved in illicit finance activities.
- Recent activities have highlighted the fact that crowdfunding platforms and some payment service providers are not currently subject to the obligations under the PCMLTFA and may be used to finance illegal activities.

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- The measures contained in the Order will ensure that crowdfunding platforms and payment service providers that hold funds of those involved in the blockades are **immediately obligated to:**
 - **Register with FINTRAC;**
 - **Report suspicious transactions to FINTRAC; and,**
 - **Report large value transactions (\$10,000 or more) to FINTRAC.**
- This temporary measure could help to mitigate the risks that these platforms can receive funds from illicit sources for illicit purposes and increase the quality/quantity of intelligence received by FINTRAC and in turn make more information available to law enforcement, to support investigations.
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Q: What do these changes mean in practice?

A: Extending anti-money laundering and anti-terrorist financing requirements to crowdfunding platforms and payment service providers will not modify the powers of the Minister of Finance or Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). It will ensure that where these entities hold funds of those involved in the blockades they are obligated to:

- Register with FINTRAC;
- Report any suspicious transaction to FINTRAC.
- Report large value transactions (\$10,000 or more) to FINTRAC.

This will help mitigate risks that these platforms receive illicit funds, increase the quality/quantity of intelligence received by FINTRAC, and make more information available to support investigations by law enforcement.

Q: What are the limitations of these changes?

A: *FINTRAC does not have the authority to track or monitor financial transactions in real time, nor does it freeze assets or investigate potential criminal activities.* The RCMP and other policing bodies would remain responsible for investigating crime.

While foreign crowdfunding platforms and the payment service providers they use would be captured, enforcement of regulatory requirements could be more limited.

The obligations would not be applied retroactively.

Q: How quickly will these new requirements come online?

A: Under the terms of the Order, all persons and entities that are engaged in the business of providing a platform to raise funds or virtual currency through donations, or providing a payment function will **immediately** have to register with FINTRAC, and **immediately** begin reporting suspicious transactions and large value transactions to FINTRAC, if they hold funds of those involved in the blockades.

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Q: Do these changes cover the use of cryptocurrencies?

A: Yes. Anti-money laundering and anti-terrorist financing requirements under the PCMLTFA already apply to businesses dealing in virtual currencies (i.e. cryptocurrencies), including requirements to register with FINTRAC, conduct customer due diligence, keep records, and report large value and suspicious transactions.

All persons and businesses regulated under the PCMLTFA are also required to report the receipt of large virtual currency transactions to FINTRAC. Under the order, suspicious reporting and large value reporting requirements have been extended to crowdfunding platforms and payment service providers.

Q: Can cryptocurrency be used to evade this order?

A: Businesses that “deal” in virtual currency (i.e. cryptocurrencies) are already regulated under the PCMLTFA, and have obligations to register with FINTRAC, verify client identity, keep records, and report transactions.

“Dealing in virtual currency” refers to the exchange or transfer of virtual currency. This includes the purchase of virtual currency using fiat currency (e.g. Canadian or US dollars) or another type of virtual currency, as well as sending virtual currency from one virtual currency business to another. As soon as the virtual currency is converted into fiat currency (e.g. Canadian dollars) or another virtual currency, or transferred to a wallet hosted by a regulated business, regulatory obligations under the PCMLTFA would be triggered.

However, these controls would not apply to peer-to-peer transactions where no regulated business is involved. This would include the transfer of virtual currency from one un-hosted wallet (i.e. self-hosted or non-custodial wallet) to another.

Q: Do any other jurisdictions regulate crowdfunding for anti-money laundering and anti-terrorist financing? What about payments service providers?

A: The Financial Action Task Force, the international standards setting body for anti-money laundering and anti-terrorist financing, has recognized the risks of crowdfunding being used by illicit actors. The European Council is expected to provide a report in November 2023 to advise on the necessity of regulating crowdfunding. To our knowledge, Canada may be the first country to regulate crowdfunding for anti-money laundering and anti-terrorist financing purposes.

Other jurisdictions such as Australia, and European Union member states regulate payment service providers for anti-money laundering and anti-terrorist financing purposes.

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Q: What does this mean for a payment service provider already covered under the PCMLTFA?

A: Payment services providers in Canada that engage in certain activities are considered “money services businesses” are already regulated under the PCMLTFA. This includes reporting requirements to FINTRAC, registration with and supervision by FINTRAC. As the order replicates certain existing requirements of the PCMLTFA, payment services providers who are already regulated would not have any new obligations.

Q: Does this order apply to foreign crowdfunding platforms and payment service providers?

A: Yes, this order applies to foreign crowdfunding platforms and payment service providers. The measures contained in the Order will ensure that foreign, as well as domestic, entities are immediately obligated to:

- Register with FINTRAC;
- Report any suspicious transaction to FINTRAC; and,
- Report large value transactions (\$10,000 or more) to FINTRAC.

Q: Are all crowdfunding platforms and payment services providers covered by this order, or just those holding funds of those involved in the blockades?

A: A number of payment service providers are already subject to the requirements of the PCMLTFA. The order refers to crowdfunding platforms and payment services providers that hold funds of those involved in the blockades (designated persons) in order to respect the scope of these emergency measures. The government will bring forward regulations to implement these requirements on a permanent basis with respect to all crowdfunding platforms and payment services providers.

Q: What will be the burden of these measures?

A: We estimate 1,500-2,000 payment service providers would be subject to the new *Retail Payments Activities Act*, and the order uses a similar definition. About 80% of these entities are already subject to the PCMLTFA requirements as money services businesses.

Many crowdfunding platforms have terms of reference and internal teams dedicated to mitigate money laundering and terrorist financing risks that these platforms pose. As with all sectors, the government will develop requirements that mitigate anti-money laundering and anti-terrorist financing risks, while minimizing administrative burden, and respecting privacy laws and the *Charter of Rights and Freedoms*.

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Annex – Background Information

CROWDFUNDING

- **Crowdfunding** is the practice of funding a project or venture by raising financial contributions from a number of people, typically through online platforms, in order to carry out a project, investment or other endeavor requiring funds. Crowdfunding campaigns are often completed in conjunction with a dedicated crowdfunding platform or by initiating informal appeals through social media. A crowdfunding platform, also called a funding portal, posts crowdfunding projects on its website. Estimates of the sector vary. Globally, the crowdfunding industry is estimated to be worth US\$10.2 billion in 2018 and is expected to reach US\$28.8 billion by the end of 2025.
- Unlike traditional fundraising methods (e.g. loans from financial institutions), crowdfunding allows individuals or groups to appeal for funds directly from members of the public. Crowdfunding platforms enable those connected online or through social media, who may be geographically dispersed, to pool resources towards common goals and projects that require financing.

PAYMENT SERVICE PROVIDERS

- **Payment service providers (PSPs)** include a variety of entities that perform electronic payment functions, such as payment processors, digital wallets, currency transfer services, and other payment technology companies that offer any of the following services:
 - providing and maintaining a payment account;
 - holding funds until the end user withdraws or transfers them;
 - initiating an electronic funds transfer as requested by an end user;
 - authorizing or transmitting instructions about an electronic funds transfer; and
 - clearing or settling electronic funds transfers

CROWDFUNDING AND PSPs

- Many of the crowdfunding platforms that currently exist use third party **PSPs** to enable the completion of payments. This means that the information related to the transaction as well as the movement of money itself, is fragmented along a number of different entities, but would most likely be held with the PSP, rather than the crowdfunding platform lending its services to an individual or entity engaged in fundraising.

CROWDFUNDING AND FINTRAC DATA

- Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, *FINTRAC does not have the authority to track or monitor financial transactions in real time.*
- *The Centre receives approximately 30 million financial transaction reports a year from businesses subject to the Act, including reports on international electronic funds transfers (EFTs) totaling \$10,000 or more within a 24 hour period; large virtual currency*

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transactions totaling \$10,000 or more within a 24 hour period; and suspicious transactions, which have no monetary threshold for reporting.

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